

Pension Benefits

for Washington's Workers'
Compensation Program



Department of
**LABOR AND
INDUSTRIES**



Introduction

If you are reading this booklet it very likely means that you were seriously injured on the job and no longer can work, or someone you love died from a work-related injury or illness. This can be a very emotional time. However, it's also a time when you will be making crucial decisions about your future, so it's important that you understand the pension system.

This booklet answers the most commonly asked questions people have about pension benefits from Washington's workers' compensation program.

- The first part describes benefits for people who no longer can work because of a workplace injury or occupational disease.
- The second part explains benefits for survivors of workers who died from a workplace injury or occupational disease. Many of the questions are the same or similar in both sections.

If you are an injured worker with a spouse and/or dependent children, you may want to read through this brochure together. That's because some of the decisions you make about the level of pension benefits you will receive could very well impact the benefits your survivors would be entitled to should you die.

If, after reading the booklet, you have further questions, please call us at 360-902-5119 or write to:

Department of Labor and Industries
Pension Benefits Section
P O Box 44281
Olympia, WA 98504-4281

This booklet is a guide to our services. While it tells you how to file for pension benefits, explains your rights and responsibilities and what to expect from us, it is not a legal interpretation of the law.



Injured Worker's Pension

What does a pension award mean to me?

A pension is a monthly payment made to you if you are permanently and totally disabled from a workplace injury or occupational disease.

Now that I am receiving a pension, are there any forms my doctor and I must sign?

No. Once a year, we will send a "Declaration of Entitlement" form to you. It asks for updated marital status and dependent information and asks if you have returned to work. To continue receiving pension payments, the form must be completed, notarized and returned to us. This includes the section on incarceration (jail).

Will I still be entitled to medical coverage for my injury?

No. Coverage for medical treatment ends on the date your pension goes into effect. An exception is made in some cases where continued treatment is needed to protect an injured worker's life. If this kind of discretionary coverage is approved, a statement of the coverage limits will be included on the notice of your pension award.

Will my family be entitled to medical coverage?

No. There is no provision in the law for providing medical coverage for dependents through workers' compensation.

Do I have to pay federal income tax on my pension?

Not under current federal law. Refer to the section of your income tax form under "Examples of Income You Do Not Report." As long as it continues to list "workers' compensation," your pension benefits are considered non-reportable income.

What is my pension reserve?

This is the amount of money set aside by L&I or the self-insurer as necessary to cover the anticipated cost of your pension.

Do I have the option to request my pension reserve in a lump sum instead of monthly payments?

No. The reserve amount cannot be paid in a lump sum.

Can I cash out my pension?

You can request in writing that your pension be cashed out at any time. At our discretion, in very extreme situations, a cash-out may be granted. If you accept the cash-out, no further benefits will be payable under the claim. However, by law, the maximum cash-out amount for a pension is \$8,500. In most cases, cashing out for \$8,500, or less, is not in your best interest when compared to a guaranteed income for the remainder of your life.

If the money reserved for my pension is used up before I die, will my benefits stop?

No. The benefits are payable as long as you remain totally disabled.

Can I have my pension payment sent directly to the financial institution of my choice?

Yes, as long as you live in the continental United States and your financial institution is a member of the Automated Clearing House. Information and an application are sent with your first payment. To obtain this service, you and your bank need to complete the application. When we receive the completed form, we will notify you of the date payment will be deposited to your account.

When will I receive my check?

The first payment will be made after we have received necessary documents and information. This includes a copy of your marriage certificate, information regarding birth dates for you and your spouse, birth certificates for any minor children,

verification of full-time school enrollment for dependent children between the ages of 18 and 23, and a copy of your divorce decree awarding custody of minor children, if applicable.

Your first payment will include the period from the effective date of the pension through the 15th of the month it is being paid. Thereafter, pension payments should be received by you on or about the 16th of each month.

Delivery of mail is sometimes delayed. Call if you haven't received the check by the end of the month it is due. The replacement of lost or stolen checks takes up to 30 days.

To avoid mail delay or possible stolen checks, consider having your pension check automatically deposited into your bank account through Electronic Fund Transfer.

Will my monthly pension check be the same amount as I received for time-loss compensation?

If your claim was filed on or after July 1, 1986, your compensation rate may be reduced depending on your chosen option. See "Pension Options" on Page 8 for further information. There may be some reduction, however, if you previously received awards for permanent partial disability.

Notice of your compensation rate will be sent to you with the initial payment of pension benefits.

Will receiving Social Security affect my pension benefits?

If you begin receiving Social Security disability or retirement benefits you should immediately notify our Pension Benefits Section in Olympia. Your future benefits may be reduced depending upon the effective date of your pension and your highest year's wages. Even if you are drawing benefits from both agencies, the total amount you receive will not be less than you would be entitled to receive from Labor and Industries alone. (Social Security survivor benefits do not affect your pension rate.)

If I receive Social Security and my pension benefits are reduced, what happens if my Social Security is terminated?

Your full pension benefits will be restored. Send us a copy of the "Social Security Termination Notice" and your rate will be corrected effective the month following termination of the federal benefits.

Will my pension increase in future years?

A cost-of-living adjustment is made each July 1 and is added to your August check. This adjustment is based on the increase in the average wage in the State of Washington during the previous calendar year.

If your benefits are partially offset because of Social Security income, you may not be entitled to the annual increase, but you will receive all of the Social Security cost-of-living increases without being further reduced by the department. If you do not receive the increase, your claim will be reviewed every three years to determine whether these federal increases have kept your combined benefit amount in line with the increase in the national wage level.

Will my pension benefits be affected if I return to part- or full-time work?

Yes. You should notify our Pension Benefits Section immediately if you go back to work. In the event you return to some type of work, we may suspend or terminate the pension award. Failure to notify us about a return to work may result in severe penalties and even criminal charges.

Will my pension benefits be affected if I am incarcerated?

Yes. You cannot receive pension benefits if you are confined in an institution under conviction and sentence.

If I marry while I am receiving pension benefits, are my benefits increased?

No.

If I get a divorce, will it change my benefits?

Your benefits would only change if your spouse was awarded custody of minor children. Under those circumstances, the children's portion of the benefit may be sent to the person who has legal custody. A copy of the divorce decree should be furnished to us if minor children are involved.

Will my benefits change if my spouse dies?

No.

If I am no longer able to handle my own affairs, what should I do?

You can give someone you trust a written authorization called a "power of attorney." This person can sign checks on your behalf. A copy of the "power of attorney" should be sent to us. The other alternative is to have a legal guardian appointed. Upon receipt of guardianship papers, we would make the check payable to your appointed guardian.

If I die, will my spouse be entitled to benefits?

The pension paid to you ends with your death and does not automatically transfer to your spouse or dependents. It is the responsibility of your spouse or family member to notify us of your death. We will assist them in applying for further benefits under their own entitlement. A spouse who continues to accept a worker's pension checks after the worker's death without notifying us may be subject to severe penalties or even criminal charges.

To be considered for payment, your spouse would need to submit an application for benefits within one year of your death (two years from a physician's written notice of the right to file if death was due to an occupational disease) together with copies of your certified marriage and death certificates.

If your death is due to the covered injury or occupational disease, pension benefits continue to your spouse and/or eligible dependent children (under 18, or up to 23 while a full-time student).

If your death is due to a cause unrelated to the covered injury or occupational disease, and:

- Your claim was filed prior to July 1, 1986, your spouse and/or eligible dependent children (under 18 or under 23 while a full-time student) are eligible to apply to continue receiving pension benefits.
- Your claim was filed on or after July 1, 1986, your spouse or eligible beneficiary may be entitled, depending on which option you selected at the time you began receiving your pension. Refer to the "Pension Options" section below for further clarification.

Pension options for claims filed on or after July 1, 1986

If your claim was filed on or after July 1, 1986, you will be required to select a pension option. The pension option selected determines the benefit amount payable to you and your designated beneficiary upon your death, *if* your death was not related to your injury or occupational disease.

The option you choose is final 60 days after L&I sends you written confirmation of the choice you made. You cannot change your choice later.

Three options currently exist. Before you receive your first pension payment, you will be given additional information including details about the amount you and your designated eligible beneficiary would be paid under each of these options. You must choose one of the following:

- Pension Option I at the full rate: the pension doesn't continue to survivors.
- Pension Option II at an actuarially reduced monthly award based on the age of the worker and the designated beneficiary. The designated beneficiary would continue to receive payment at the same rate after your death.
- Pension Option III also an actuarially reduced monthly award, the designated beneficiary would receive 50 percent of that reduced benefit from the time of your death.

For all options, the rate could change if the worker received Social Security benefits.

If you die before choosing an option, the department will choose Pension Option II for any qualified beneficiaries.

The pension option applies only if your death is unrelated to the accepted injury or occupational disease.

What if I have questions that have not been answered?

If you have other questions, please call us at 360-902-5119 or write to: Department of Labor and Industries, Pension Benefits Section. P O Box 44281, Olympia. WA 98504-4281. Be sure to include the claim number and pension folio number in all correspondence.



Survivor Benefits

If you are the surviving spouse or dependent of a worker who has died from a workplace injury or occupational disease, you may be eligible for a monthly survivor pension.

This section answers the most commonly asked questions about your survivor benefits.

It is important to note that workplace injury or occupational disease claims filed on or after July 1, 1986, have a survivor's benefit option even if the death is not related to the accepted injury or occupational disease.

The date of the worker's injury determines the amount of the benefits paid.

Do I have to apply to receive survivor's benefits?

Yes. A survivor must submit an application for benefits within one year from the date of the worker's death due to an injury, or within two years of receiving written notice from a physician that death was due to an occupational disease and that a claim may be filed.

We also will need the following documentation: certified marriage certificate, death certificate, certified state birth certificates of minor children, and, if applicable, a divorce decree showing custody of any minor children.

What medical bills are covered?

The injured worker's medical bills for treatment of the accepted injury or occupational disease are payable up to the date of death or until the date the injured worker received a pension award. No medical benefits are payable for survivors.

What is the 'first survivor benefit paid'?

When a beneficiary's claim is approved, a one-time "immediate" payment is made when the death resulted from the workplace injury or disease. The amount of the immediate payment varies according to the date of the injury.

Regardless of the cause of death, this payment is made for claims filed on or before July 1, 1986.

Are burial benefits paid?

A burial benefit is paid when death is directly related to the workplace injury or occupational disease. The amount is determined by the date of injury.

How long does a survivor pension last?

For a surviving spouse, a pension is a life-long monthly benefit until death or re-marriage. If a survivor option is chosen and the worker's death was not related to the workplace injury or disease, benefits will continue even after a re-marriage.

For surviving children, benefits cease at age 18 (they may continue up to age 23 if the child is enrolled full-time in an accredited school). For other dependents, benefits cease when the need that caused dependency ends.

How is the monthly survivor pension determined?

The amount varies depending upon whether there is a surviving spouse, children or other dependents, and whether or not a survivor benefit option has been chosen. The benefits also can be different if the worker's death was unrelated to the workplace injury or occupational disease. The variations are:

- **Survivor pension options.** When an injured worker begins receiving a pension, and the claim was filed on or after July 1, 1986, the worker is required to select a pension option. The option selected determines the benefit level payable to the worker and designated beneficiary upon the worker's death if the death is not related to the workplace injury or occupational disease. The pension option selected at that time is final and cannot be changed at a later date.

Pension options apply only when the worker's death was unrelated to the injury or occupational disease. If death was due to the injury or occupational disease, benefits are paid at the full beneficiary rate.

If the worker's claim was filed on or after July 1, 1986, one of the following three survivor options was chosen:

- Full rate paid to the worker. No survivor benefits are payable.
- A reduced rate paid to the worker. The same rate is paid to the designated beneficiary.
- A reduced rate paid to the worker, with one-half of the reduced rate paid to the designated beneficiary.

All three of the above options only apply if the death was not related to the workplace injury or occupational disease.

- **Surviving spouse (where pension option does not apply.)** For recent injuries, a surviving spouse receives 60 percent of the worker's wage at the time of injury up to the maximum level allowed by law. If the worker had minor children, an additional 2 percent per child is paid, up to an additional maximum of 10 percent.

Minor children of the worker living in another household are entitled to 5 percent of the total entitlement per child up to a maximum of 25 percent. The remainder of the benefit is paid to the surviving spouse and children residing in the deceased worker's household.

- **Children's benefits (where there is not an eligible spouse and where pension options don't apply).** A monthly benefit of 35 percent of the worker's wage is paid to the guardian of a minor dependent. Another 15 percent of the wage is paid for each additional child up to a maximum benefit equal to 65 percent of the wage at the time of injury. Where there is more than one child, benefits are divided equally among them.

What is the maximum benefit?

The maximum benefit is equal to 75 percent of the preceding year's statewide average wage for injuries that occurred prior to July 1 1988; 100 percent of the preceding year's statewide average wage for those injuries occurring on or after July 1, 1988, and before July 1, 1993; 105 percent of the preceding year's statewide average wage for injuries occurring on or after July 1, 1993, and before July 1, 1994; 110 percent of the preceding year's statewide average wage for injuries occurring on or after July 1, 1994, and before July 1, 1995; 115 percent of the preceding year's statewide average wage for injuries occurring on or after July 1, 1995, and before July 1, 1996; or 120 percent of the preceding year's statewide average wage for injuries occurring on or after July 1, 1996.

Are benefits payable to other dependents?

If the pension option does not apply, qualified dependents can receive payments if they were necessarily dependent on the worker's earnings. Dependents can include a father, mother, grandparents, grandchildren, brothers, sisters, nieces and nephews.

The benefit is equal to half of the average monthly support received by the dependent during the year preceding the injury. The benefit limit is 65 percent of the worker's wage or the maximum benefit level, whichever is less.

The payments end when the necessity that created the dependency would have ended had the injury not occurred. Benefits also end for minor dependents when they reach age 18 (up to 23 if they are full-time students in an accredited school).

Are my survivor pension benefits affected if I am working?

No. A surviving spouse or children can work and earn wages and continue to receive survivor benefits.

If a survivor pension option doesn't apply, are my benefits affected if I remarry?

You would receive benefits through the end of the month in which you remarry. You then have the option to receive a final settlement, or to leave the settlement in trust with us. If you accept the settlement, no further benefits are paid to you under this claim. If you leave your settlement in trust with us and your new marriage ends in death, annulment or divorce, you can apply to reinstate the pension as of the date of death or date the divorce becomes final.

Should you die while your settlement is in trust with us, your estate is paid 50 percent of the remaining pension reserve or the settlement amount, whichever is less.

You must notify us immediately if you remarry. If you do not and continue to accept pension benefit checks after remarriage, you may face severe penalties or even criminal charges.

What effect does remarriage have on our children's benefit?

Where the pension option does not apply and remarriage settlement is paid, children generally are entitled to benefits until they reach the age of 18. They still may be eligible until age 23 if they are enrolled in an accredited school as a full-time student.

Will my survivor pension increase in the future?

A form of cost-of-living adjustment is made each July 1 and is added to your August check. The amount depends upon the change in the state's average wage. Each year, a letter will be sent to you in July letting you know of the change in the benefit amount.

Will receiving Social Security affect my survivor pension?

No.

Will my survivor pension be affected if I am incarcerated?

Yes. You cannot receive pension benefits if you are confined in an institution under conviction and sentence.

If I no longer am able to handle my own affairs, what should I do?

You may give someone you trust a written authorization called a "power of attorney."

This person can sign your checks. A copy of the power of attorney should be sent to the Pension Benefits Section.

Another alternative is to have a legal guardian appointed.

Upon receipt of the guardian papers, however, the check will be made out to the appointed guardian.

Can my survivor pension payment be sent directly to the financial institution of my choice?

Yes, as long as you live in the continental United States and your financial institution is a member of the Automated Clearing House.

Information and an application are sent with your first payment. To obtain this service, you and the bank need to complete and return the application to us. After we receive the application, we will notify you of the date payment will be deposited to your account.

When will I receive survivor pension payments?

Survivor payments are made once a month and should be received by you on or about the 16th of each month. Delivery of mail is sometimes delayed, but call us if you haven't received payment by the end of the month it is due.

To avoid mail delay or possible stolen checks, consider having your check deposited automatically into your bank account through electronic fund transfer.

Do I have to pay federal income tax on my pension benefits?

Under current federal law, survivors' benefits are not taxable. Refer to the section of your income tax form under "Examples of Income You Do Not Report." As long as it lists "workers' compensation," it is considered non-reportable income.

Pension Benefits Section
Department of Labor and Industries
P O Box 44281
Olympia WA 98504-4281

This document is available in other formats to accommodate persons with disabilities. For assistance, call 1-800-547-8367. (TDD users, please call 360-902-5797.) Labor and Industries is an Equal Opportunity Employer.

For more information about Pension Benefits, please contact Labor and Industries, Pension Benefits Section, P O Box 44281, Olympia, WA 98504-4281, 360-902-5119.